

REMARKS

The Amendments

Claim 1 is amended to incorporate the substance of claims 4 and 6 therein. Claims 4 and 6 were not subject to the prior art rejections, thus, the amendment is believed to direct the claims to allowable subject matter. The non-elected claims are canceled and a new dependent claim analogous to an original claim is added.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Provisional Obviousness-type Double Patenting Rejection

The provisional obviousness-type double patenting rejection over claim 1 of Ser. No. 10/391,645 is respectfully traversed. The '645 application has now issued as U.S. Patent No. 7,229,646. The claims in the application were amended and the claims that issued therein are all directed to methods for treating lupus erythmatosus. The claims are not directed to method of treating a malignant tumor cancer. Thus, there is no obviousness-type double patenting and the rejection should be withdrawn.

The Rejection under 35 U.S.C. §102

The rejection of claims 1, 5 and 12 under 35 U.S.C. §102(b) over WO 00/53198 and the rejection of claims 1-3 and 12 under 35 U.S.C. §102(e) over Bui (U.S. Patent No. 6,596,303) are believed to be rendered moot by the above amendments. These rejections were not applied against claims 4 or 6 and the substance of claims 4 and 6, alternatively, are now incorporated into the independent claim 1. Thus, the rejections should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

No fee, other than the 1-Month Extension of Time being paid herewith, is believed to be due with this Amendment. However, the Commissioner is hereby authorized to charge any additional fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/John A. Sopp/
John A. Sopp, Reg. No. 33,103
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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JAS/cak